

# Notice of Allowability

## Application No.

09/623,013

## Examiner

Keith Hendricks

## Applicant(s)

ARNAUT ET AL.

## Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE and amendments filed 3-25-03 and 9-03-03.
2. ☒ The allowed claim(s) is/are 13-17, 19 and 26.
3. ☐ The drawings filed on 24 August 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |   |
|--|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____.            |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____.              | 6 <input type="checkbox"/> Examiner's Amendment/Comment                             |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other _____.   |

### REASONS FOR ALLOWANCE

Claims 13-17, 19 and 26 are allowed.

The following is an examiner's statement of reasons for allowance:

Applicants' perfection of the oath/declaration now provides a foreign priority date which pre-dates the previously-applied Kringelum reference (WO 98/38869). The instant claims are drawn to a composition, which comprises (a) a powder comprising particles of fat and enzymes which are agglomerated and which have a mean particle size of at least 250 microns, and (b) flour. Particles similar to those required by part (a) were previously known, being utilized in various detergent compositions. However, even in such art, several difficulties existed due to the agglomerated particles fragmenting easily, leaving smaller particles, as well as presenting storage and handling difficulties.

EP 0 650 669 (Gaubert et al., of record) disclose a baking improver composition comprising a powder composition which may comprise fat and enzymes, wherein said composition is compacted to form solid blocks. However, the powder particles prior to compacting are not of the size required by the instant claims, and subsequent to compacting the composition is not in powder form. WO 93/07260 provides for dust-free enzyme particles wherein enzymes are deposited on non-pareils, in the size range of at least 250 microns; however, the reference does not provide a suggestion or teaching to combine the powdered particles with flour for use in preparing bread. Similarly, Green et al. (US PAT 4,009,076) disclose a process for producing enzyme granules by encapsulating with fats, wherein the granules are made by spraying the enzyme-containing core with an atomized aqueous solution; however, the reference does not provide a suggestion or teaching to combine the powdered particles with flour for use in preparing bread. GB 998 016 provides for particles comprising fat and other active components which are within the size range of the instant claims, and their use in various foodstuffs, including with flour for making bread; however, the reference does not teach or suggest the inclusion of enzymes with the particles. Thus, while the art is occupied with various embodiments of enzyme-and-fat particles and their uses, there is no direct teaching or suggestion to produce the claimed invention, prior to the effective filing date of this application.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith Hendricks whose telephone number is (703) 308-2959. The examiner can normally be reached on M-F (8:30am-6pm); First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
KEITH HENDRICKS  
PRIMARY EXAMINER